

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

PHYLLIS M. KNIGHT,

Plaintiff,

vs.

LACHELLE A. PHILLIPS, and ARTHUR  
PHILLIPS,

Defendants.

**8:21CV408**

**ORDER**

This matter is before the Court on Plaintiff's motion requesting that I recuse myself from this case. ([Filing No. 41](#).) This request will be denied.

On September 8, 2023, I held a telephone conference with the parties regarding a motion to compel filed by Plaintiff. During the call, Defendant Lachelle Phillips indicated she did not understand why the Court was having the call or what a motion to compel is. I told the parties the reason for the telephone conference—because Plaintiff had filed a motion to compel Defendants to answer discovery requests. Plaintiff contends I provided Defendants legal advice by telling Defendants what a motion to compel is.

A judge must disqualify herself in any proceeding in which her impartiality might reasonably be questioned. [28 U.S.C. § 455\(a\)](#). “Every judicial officer must satisfy herself that she is unbiased toward the parties in each case and that her impartiality is not reasonably subject to question.” [Franklin v. Dept. of Heath and Human Services, No. 8:21CV87, 2021 WL 5920483, at \\*1 \(D. Neb. Nov. 16, 2021\)](#). Decisions regarding disqualification should be made by the judge sitting in the case—not by another judge. [Id.](#) (citing [United States v. Balistrieri](#),

[779 F.2d 1191, 1202-03 \(7th Cir. 1985\)](#)). “[T]he recusal inquiry must be made from the perspective of a reasonable observer who is informed of all the surrounding facts and circumstances.” [Cheney v. U.S. Dist. Court for Dist. of Columbia, 541 U.S. 913, 924 \(2004\)](#) (quotation omitted). “A party introducing a motion to recuse carries a heavy burden of proof; a judge is presumed to be impartial and the party seeking disqualification bears the substantial burden of proving otherwise.” [Fletcher v. Conoco Pipe Line Co., 323 F.3d 661, 664 \(8th Cir. 2003\)](#) (quotation omitted).

I will not recuse myself from this case for multiple reasons. First, responding to a question posed to me about why the Court scheduled a telephone conference and discussing procedural matters during a court proceeding does not constitute the practice of law. I did not provide Defendants any legal advice by explaining why the telephone conference was scheduled or what a motion to compel is. In fact, I specifically stated I could not provide legal advice or instruct anyone what to do. Second, I have no personal knowledge of, or involvement with, any of the facts giving rise to this proceeding. Third, I have no interest, economic or otherwise, in the outcome of this litigation. Fourth, I have no personal relationship with Defendants or Plaintiff. I was not aware of Defendants or Plaintiff before this action was filed. Under such circumstances, a reasonable person would not conclude I am biased. While Plaintiff may be dissatisfied with certain rulings I made in this case, this is not a basis upon which I must recuse myself.

Accordingly,

**IT IS ORDERED** that Plaintiff’s Motion to Recuse ([Filing No. 41](#)) is denied.

Dated this 13<sup>th</sup> day of January, 2023.

BY THE COURT:

s/ Susan M. Bazis  
United States Magistrate Judge